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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/567,686	08/29/2006	Katsuo Shibahara	2006-0150A	2121

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EXAMINER	
HANNON, THOMAS R	

ART UNIT	PAPER NUMBER
3656	

MAIL DATE	DELIVERY MODE
12/31/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/567,686	SHIBAHARA ET AL.	
	Examiner	Art Unit	
	Thomas R. Hannon	3656	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-12* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-12* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *09 February 2006* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *5/10/06*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-4 and 7-10 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1 and 5 of copending Application No. 10/570144. Although the conflicting claims are not identical, they are not patentably distinct from each other because it would have been obvious to one of ordinary skill in the art at the time the invention was made to have a radial bearing portion for supporting the shaft member (axial member) in a radial direction in a noncontact fashion by fluid dynamic pressure action occurring in a radial bearing gap in the dynamic pressure device of Application No. 10/570144.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claims 5, 6, 11, and 12 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1 and 5 of copending

Application No. 10/570144 in view of Tanaka et al US 6,271,612. Tanaka discloses a hydrodynamic bearing assembly in which a hollow shaft member has a thread (13Db, Figure 8) formed around an inner circumference of an end portion of the metal hollow member. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the claimed invention to include an internal thread to an end portion of the shaft member for mounting a separate member, as this is taught and suggested by Tanaka.

Claims 1-4 and 7-10 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 10 of copending Application No. 11/215114. Although the conflicting claims are not identical, they are not patentably distinct from each other because claim 1 of the present application fully encompasses the subject matter of claim 10 of copending application 11/215114.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claims 5, 6, 11, and 12 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 10 of copending Application No. 11/215114 in view of Tanaka et al US 6,271,612. Tanaka discloses a hydrodynamic bearing assembly in which a hollow shaft member has a thread (13Db, Figure 8) formed around an inner circumference of an end portion of the metal hollow member. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the claimed invention to include an internal thread to an end portion of the shaft member for mounting a separate member, as this is taught and suggested by Tanaka.

This is a provisional obviousness-type double patenting rejection.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP2003-184868 in view of Nakagawa US 2002/0172438.

JP 2003-184868 discloses a dynamic pressure bearing unit comprising: a bearing sleeve (11); a shaft member (12) having a shaft portion inserted along an inner circumference of said bearing sleeve, and a flange portion (13) extending radially outwardly of said shaft portion; a radial bearing portion (16a) for supporting said shaft member in a radial direction in a noncontact fashion by fluid dynamic pressure action occurring in a radial bearing gap; and a thrust bearing portion (16b) for supporting said shaft member in a thrust direction in a noncontact fashion by fluid dynamic pressure action occurring in a thrust bearing gap, wherein an outer circumference of said shaft portion of said shaft member is formed from a cylindrically shaped metal member, while said flange portion is formed from a resin member. JP 2003-184868 does not disclose a hollow metal shaft and a resin core. Nakagawa discloses a dynamic pressure bearing having a shaft portion formed as a hollow metal member (61), and at the end of the hollow member, a thrust member (62) made of resin is mounted to the inside of the hollow portion via a core portion and has a flange portion projecting from the core. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the shaft of JP 2003-184868 so that it is hollow and has a core section including an axial part and a flange part that

are integrally formed of resin, as an alternate means of mounting the thrust portion to the metal shaft member.

With respect to claim 2, "determination of patentability is based on the product itself. The patentability of a product does not depend on its method of production. If the product in the product-by-process claim is the same as or obvious from a product of the prior art, the claim is unpatentable even though the prior product was made by a different process." In re Thorpe, 777 F.2d 695, 698, 227 USPQ 964, 966 (Fed. Cir. 1985).

With respect to claim 3, JP 2003-184868 discloses the use of herringbone grooves 16b formed at least in one end face of the flange portion.

With respect to claim 4, "determination of patentability is based on the product itself. The patentability of a product does not depend on its method of production. If the product in the product-by-process claim is the same as or obvious from a product of the prior art, the claim is unpatentable even though the prior product was made by a different process." In re Thorpe, 777 F.2d 695, 698, 227 USPQ 964, 966 (Fed. Cir. 1985).

With respect to claims 7-10, JP2003-184868 discloses a housing (3) in which the bearing sleeve is accommodated, and wherein the flange portion (13) is disposed with one end face thereof facing an end face of the bearing sleeve and with the other end face thereof facing a bottom face (at 14) of the housing.

Claims 5, 6, 11, and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP2003-184868 in view of Nakagawa US 2002/0172438 as applied to claims 1 and 7 above, and further in view of Tanaka US 6,271,612.

Tanaka discloses a hydrodynamic bearing assembly in which a hollow shaft member has a thread (13Db, Figure 8) formed around an inner circumference of an end portion of the metal hollow member. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the assembly of JP2003-184868 to include an internal thread to an end portion of the shaft member for mounting a separate member, as this is taught and suggested by Tanaka.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas R. Hannon whose telephone number is (571) 272-7104. The examiner can normally be reached on Monday-Thursday (8:30-7:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard WL Ridley can be reached on (571) 272-6917. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Thomas R. Hannon/
Primary Examiner, Art Unit 3656